

REMARKS

Reconsideration of the allowability of the present application in view of the above claim amendments and the following remarks is requested respectfully.

Discussion of the Claims

This responds to the Action dated May 31, 2007.

Claims 1, 6, 10, 12 to 17, and 22 to 27 were acted upon by the Examiner. Claims 2 to 4 and 11 have been previously canceled. Claims 18 to 21 and 28 to 33 have been previously withdrawn. Claims 5 and 7 to 9 have not yet been examined because they are directed to unelected species. Once a generic claim has been deemed allowable, claims 5 and 7 to 9 will be examined.

Claims 1 and 13 to 17, 26 and 27 have been amended. Claim 12 has been canceled. No claims have been added. Accordingly, claims 1, 5 to 10, 13 to 17, and 22 to 27 are presented for examination.

Discussion of the Claim Amendments

Claim 1 has been amended to recite “consisting of” instead of “consisting essentially of”.

Claims 15 to 17 have been amended to incorporate the recitation of claim 12 and have been re-written in independent form.

Claims 13, 14, 26, and 27 have been amended to depend from claim 15 instead of claim 12, which has been canceled.

No new matter has been added.

I. Discussion of the Examiner’s Section 102
Rejection of Claims 1, 6, 10, 12 to 14, and 22 to 27

The Examiner rejected Claims 1, 6, 10, 12 to 14, and 22 to 27 under 35 U.S.C. § 102(e) as being anticipated by Sonne (U.S. Patent No. 6,193,985).

Applicants respectfully traverse the rejection.

Applicants do not agree with the Examiner’s assertion that Sonne anticipates the

present invention, however, in order to advance prosecution, applicants have amended claim 1 to recite “consisting of”. As Sonne does not disclose a composition consisting of the composition of presently amended claim 1, Sonne does not anticipate claim 1.

Similarly, claim 12, which recited “comprising” language, has been canceled and claims 15 to 17 have been rewritten using the recitation of claim 12 with “consisting of” language. As Sonne does not disclose a composition consisting of the composition of presently amended claims 15 to 17, Sonne does not anticipate these claims.

The other pending claims depend directly or indirectly from claims 1, 15, 16 or 17. Accordingly, applicants request that the rejections of claims 1, 6, 10, 12 to 14, and 22 to 27 under 35 U.S.C. § 102(e) as being anticipated by Sonne be withdrawn.

II. Discussion of the Examiner’s Section 103 Rejection of Claims 15 to 17

The Examiner rejected Claims 15 to 17 under 35 U.S.C. § 103(a) as being obvious over the disclosure of Sonne.

The deficiencies of Sonne are noted above. A proper *prima facie* case of obviousness requires that the combination of references must teach or suggest all of the claim limitations. Applicants submit that the present rejection has not satisfied this requirement.

As noted above, Sonne does not teach a composition consisting of the composition of presently amended claims 1 and 15 to 17. The compositions of Sonne consist of more elements than the compositions of the presently amended claims. “[O]mission of an element and retention of its function is an indicia of unobviousness. In re Edge, 359 F.2d 896, 149 USPQ 556 (CCPA 1966)”. MPEP §2144.04.II.B.

Accordingly, applicants request that the rejections of claims 15 to 17 under 35 U.S.C. § 103(a) as being obvious over the disclosure of Sonne be withdrawn.

III. Discussion of the Examiner's Obviousness-type
Double Patenting Rejection of Claims 1, 6, 10, 12 to 17, and 22 to 27
Claims 1, 6, 10, 12 to 17, and 22 to 27 stand rejected on the ground of non-statutory obviousness-type double patenting as being obvious over Claims 1 to 7 of U.S. Patent No. 6,241,969. This rejection has been obviated by the filing, concurrently with this Reply, of a Terminal Disclaimer.

A favorable action is requested respectfully. It is hereby requested that the term to respond to the Office Action, dated May 31, 2007, be extended three months, from August 31, 2007 to November 30, 2007. Payment to cover the extension fee and terminal disclaimer fee has been submitted electronically. The Commissioner is hereby authorized to charge any additional fees or credit any overpayment associated with this communication to Deposit Account No. 19-5425.

Respectfully submitted,

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